

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

GEORGE ROBERT STUDNICKA,

Civil No. 05-723 (JRT/FLN)

Plaintiff,

v.

**ORDER ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

A DANIEL PINHEIRO, YOLANDA I
GARVES, and MAYO CLINIC GROUP,

Respondent.

David B. Ketrosor, **DAVID B KETROSER, MN, JD**, Post Office Box 427,
Hopkins, MN 55343, for plaintiff.

Heather M. McCann, William R. Stoeri and Paul B. Klaas, **DORSEY &
WHITNEY LLP**, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402;
Joseph M. Colaiano, **MAYO CLINIC LEGAL DEPARTMENT**, 200 First
Street Southwest, Rochester, MN 55905, for defendants.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by
United States Magistrate Judge Franklin L. Noel dated February 11, 2008, all the files
and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that Defendants' amended motion for summary
judgment [Docket No. 383] is **DENIED** to the extent that it seeks dismissal of the claim
of battery relating to the April 11, 2001, radial neck dissection operation, and is
GRANTED to the extent that it seeks dismissal of all other claims

DATED: March 5, 2008
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge